

REMARKS/ARGUMENTS

Claim 1 has been amended to clarify an error as recognized by the Examiner.

The applicants' attorney appreciates the telephone discussion with the Examiner on November 1, 2004. During the discussion claim 1 was discussed with respect to the cited references. No agreement was reached.

Rejections Under 35 U.S.C. § 112

The Examiner has rejected claims 1-10 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner stated that in claim 1, the last three lines "said flexible portion" lacks antecedent bases. The Examiner correctly noted that "portion" should be changed to "partition". Claim 1 has been amended accordingly.

For the above reasons stated above, claims 1-6 and 9-10, as amended, clearly define the invention.

Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1, 8, 9, and 10 under 35 U.S.C. § 102 as being anticipated by Japanese publication 9-229128.

As discussed in the above mentioned telephone discussion, the last element of claim 1 recites that the inner peripheral portion of the annular curved portion 50 of the flexible partition 46 is fixed to the inner shaft member 12. Paragraph [0033] of the present application clearly states how the flexible partition 46 is bonded at an inner peripheral portion of the annular curved portion 50 to the metallic fixing sleeve member 54 by a vulcanization process. Paragraph [0035] states how fixing sleeve member 54 is forcedly press-fitted onto the inner sleeve 12 cause a fluid-tight connection. This describes how the inner peripheral portion of the annular curved portion 50 of the flexible partition 46 is fixed to the inner member 12, as recited in the last element of claim 1.

In addition, the last element of claim 1 recites that the outer peripheral portion of the cylindrical portion of the flexible partition 46 is fixed to the orifice defining member 52. This is disclosed in paragraph [0033] of the present application.

JP-A-9-229128 fails to teach at least having an inner peripheral portion of said annular curved portion of said flexible partition being fixed to the inner shaft member. More specifically, as shown in FIG.'s 1-4 of JP-A-9-229128, the sealing lip 13 partitioning the first and second chambers 21, 22 from each other is just forcedly held in contact with the inner shaft member 5, but not fixed to the inner shaft member 5 (see column 5, lines 9-11).

As a result of lacking this essential feature, the device disclosed in JP-A-9-229128 suffers from the problem of insufficient sealing of the rubber partition, and is not able to provide a so-called "piston effect" as in the present invention (see paragraph [0011] of the specification) that generates sufficient amount of fluid flow between the pressure receiving chamber and the equilibrium chamber.

For at least this reason, claim 1 is not anticipated by JP-A-9-229128.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claim 3 under 35 U.S.C. § 103 as being unpatentable over '128.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over '128 in view of Kanda.

Claims 3-7 depend either directly or indirectly from independent claim 1 and are therefore also allowable over the cited arts for the reasons stated for claim 1.

Allowable Subject Matter

The Examiner stated that claim 2 would be allowable if rewritten the rejections under 35 U.S.C. 112, second paragraph, set forth in the Office action and to include all of the limitations of the base claim and any intervening claims. The applicants appreciate the Examiner's comments regarding the allowability of claim 2. Due to the amendments to claim 1, we believe that claim 1 is currently allowable and will so amend claim 2 if required at a later time.

Applicants believe that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a

telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP

A handwritten signature in black ink, appearing to read "Michael Lee", with a stylized, cursive script.

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